

Appln No. 09/884,183

Amdt date June 18, 2004

Reply to Office action of December 18, 2003

REMARKS/ARGUMENTS

Claims 5-7 are pending in the Application. The Office action rejects claims 5-7 under 35 USC 101 and 35 USC 112, first paragraph, for purportedly being unsupported "by either a specific and substantial asserted utility or a well established utility." Applicant respectfully disagrees.

On page 3, lines 3-22, Applicant identifies a serious problem attendant to the breeding of captive laboratory rodents; namely, the development of ultra-long telomeres. As noted in the Application, the development of ultra-long telomeres affects the usefulness of such rodents as models for drug-testing purposes as, for example, by skewing susceptibility to tumors and resulting life expectancy. See, e.g., page 3, lines 14-16.

The Applicant has invented a way to avoid this problem, specifically by using one of a number of techniques described in the application to produce populations of laboratory animals having a defined range of telomere lengths, thus providing a more accurate model system for the testing of drugs and other agents. See, e.g., page 4, line 1, through page 6, line 17. Plainly, this is an important discovery with high utility as it allows researchers to better test and develop drugs, assess the toxicity of various agents, etc., without having results skewed by the problem of ultra-long telomeres. Thus, the Applicant has asserted a specific utility for his invention in the specification. "In most cases, an applicant's assertion of utility creates a presumption of utility that will be sufficient to satisfy the utility requirement of 35 USC 101." Please see

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MPEP sec. 2107.2 and the cases cited therein. Accordingly, Applicant respectfully requests that the rejections under 35 USC 101 and 112, first paragraph, be withdrawn.

In view of the foregoing response, it is believed that the application is in condition for allowance and, accordingly, allowance is earnestly solicited.

If any questions remain regarding the allowability of the application, Applicant would appreciate if the Examiner would advise the undersigned by telephone.

The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 03-1728. Please show our docket number with any charge or credit to our Deposit Account.

Respectfully submitted,

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